



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

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:
IN THE MATTER OF :
:
EMERSON QUIET KOOL CORPORATION, :
MIDLAND GLASS COMPANY, INC., :
and : WITHDRAWAL OF ORDERS AS TO
TWO GUYS DEPARTMENT STORES, : CERTAIN RESPONDENTS
:
Respondents. : Index Nos. II-CERCLA-50102,
: II-CERCLA-50107
Proceeding Pursuant to §106
of the Comprehensive Environ- :
mental Response, Compensation, :
and Liability Act, 42 U.S.C. :
§9606 :
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FINDINGS

1. On December 4, 1984, an Administrative Order, Index No. II-CERCLA-50102 (hereinafter, "Order No. 50102"), was issued to the above-captioned Respondents Midland Glass Company, Inc., Two Guys Department Stores ("Two Guys"), and 34 other Respondents by the United States Environmental Protection Agency ("EPA") pursuant to the authority vested in the President of the United States by §106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §9606(a), delegated to the Administrator of the EPA by Executive

Order 12316, 46 Fed. Reg. 42237 (August 14, 1981), and re-delegated to the Regional Administrator, EPA Region II, on March 17, 1983. Under the terms of this Order, the Respondents were instructed to undertake certain immediate corrective actions at the Duane Marine Salvage Corporation facility in Perth Amboy, New Jersey, an abandoned hazardous waste disposal facility.

2. On December 18, 1984, EPA amended Order No. 50102 by letter memorandum.

3. On December 19, 1984, EPA issued an Administrative Order, Index No. II-CERCLA-50105, to three additional Respondents.

4. The two Orders mentioned in paragraphs 1 and 3 of this section were amended by letter memorandum dated January 16, 1985.

5. EPA withdrew its Orders with respect to five of the Respondents to Order No. 50102, on January 23, 1985.

6. On March 22, 1985, EPA issued a third Administrative Order, Index No. II-CERCLA-50107, in connection with the Duane Marine Salvage Corporation Site. This Order was issued to Respondent Emerson Quiet Kool Corporation ("Emerson Quiet Cool" in the caption) and to 21 other respondents.

7. On various dates subsequent to December 4, 1984, a number of Respondents (hereinafter, "the objecting Respondents") appeared in this proceeding by their respective counsel or through officers of their respective corporations and submitted information

to EPA that supplemented information already in the possession of the Agency which initially formed the basis for including such corporations as Respondents in the above-captioned proceedings. The objecting Respondents requested that the Orders of December 4, 1984, and any subsequent Orders issued in connection with the Duane Marine site, be withdrawn as to them because, for reasons adequately supported in documents submitted by each of the objecting Respondents to the EPA, they were not responsible parties for the release or threatened release of hazardous substances, pollutants, or contaminants to the environment from the Duane Marine facility.

8. Subsequently, between December 4, 1984, and June 21, 1985, communications were exchanged between counsel or representatives for the objecting Respondents and staff of the Office of Regional Counsel and the Emergency and Remedial Response Division, EPA Region II, in which the objecting Respondents set forth reasons why they believed the information in the possession of EPA, as supplemented by additional information or explanations provided by the objecting Respondents, failed to establish that they were potentially responsible parties under CERCLA for the environmental conditions to which EPA's Orders were addressed.

9. The documents submitted by the objecting Respondents have been evaluated by EPA's Office of Regional Counsel and by the Emergency and Remedial Response Division, which have recommended that the proceeding initially commenced by EPA

should be withdrawn as to certain of the objecting Repondents.

WHEREFORE, on the basis of a consideration of the entire record of this proceeding, the above-captioned Orders are hereby WITHDRAWN with respect to the following Respondents:

1. Emerson Quiet Kool Corporation
2. Midland Glass Company, Inc.
3. Two Guys Department Stores

Effective this 28TH day of June, 1985.


CHRISTOPHER J. DAGGETT
REGIONAL ADMINISTRATOR

JUNE 28, 1985
DATE

U.S. Environmental Protection Agency
Region II